BEFORE THE MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Case No.	12-2008-195029
	Case No.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 1, 2011.

IT IS SO ORDERED March 3, 2011.

MEDICAL BOARD OF CALIFORNIA

Shelton Duruisseau, Ph.D., Chair

Panel A

	·				
1	EDMUND G. BROWN JR.				
2	Attorney General of California JOSE R. GUERRERO				
3	Supervising Deputy Attorney General DAVID CARR Deputy Attorney General State Bar No. 131672				
4					
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004				
6	Telephone: (415) 703-5538 Facsimile: (415) 703-5480 Attorneys for Complainant				
7	BEFORE THE				
8	MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS				
9	STATE OF CALIFORNIA				
10	Y 11 DA 11 Call of A consider	Case No. 12-2008-195029			
11	In the Matter of the Accusation Against:				
12	MICHAEL LOOSE, M.D.	OAH No. 2010031458			
13	PMB 269 3212 Jefferson St. Napa, CA 94558	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER			
14					
15	Physician's and Surgeon's Certificate No. G84055				
16	Respondent.	•			
17					
18					
19	In the interest of a prompt and speedy settl	ement of this matter, consistent with the public			
20	interest and the responsibility of the Medical Board of California of the Department of Consumer				
21	Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order				
22	which will be submitted to the Board for approval and adoption as the final disposition of the				
23	Accusation.				
24	<u>PARTIES</u>				
25	1. Linda K. Whitney ("Complainant") i	s the Executive Director of the Medical Board of			
26	California. She brought this action solely in her	official capacity and is represented in this matter			
27	by Edmund G. Brown Jr., Attorney General of the State of California, by David Carr, Deputy				
28	Attorney General.				

- 2. Respondent Michael Loose, M.D. ("Respondent") is represented in this proceeding by attorney Ann H. Larson, of McNamara, Ney, Beatty, Slattery, Borges & Brothers LLP, 1211 Newell Ave., P.O. Box 5288, Walnut Creek, CA 94596.
- 3. On or about August 8, 1997, the Medical Board of California issued Physician's and Surgeon's certificate No. G84055 to Michael Loose, M.D. The Physician's and Surgeon's certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 12-2008-195029 and will expire on April 30, 2011, unless renewed.

JURISDICTION

4. Accusation No. 12-2008-195029 was filed before the Medical Board of California ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 6, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 12-2008-195029 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 3. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 12-2008-195029. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 4. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 5. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 6. Respondent admits the truth of each and every charge and allegation in Accusation No. 12-2008-195029.
- 7. Respondent agrees that his Physician's and Surgeon's certificate is subject to discipline and he agrees to be bound by the Board 's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

8. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

- 9. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 10. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 11. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's certificate No. G84055, issued to Respondent Michael Loose, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. <u>CONTROLLED SUBSTANCES - ABSTAIN FROM USE</u> Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawful prescription medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name and strength; and issuing pharmacy name, address, and telephone number.

- 2. <u>ALCOHOL ABSTAIN FROM USE</u> Respondent shall abstain completely from the use of products or beverages containing alcohol.
- 3. <u>BIOLOGICAL FLUID TESTING</u> Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon the request of the Board or its designee. Respondent shall, by the effective date of this order, contract with an laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed urine testing a minimum of four times per month. The contract shall require that the results of the urine testing be transmitted by the laboratory or service directly to the Board or its designee within 4 hours of the results becoming available. Failure to maintain this arrangement with the laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test results may be received in evidence in any proceedings between the Board and the respondent. Failure to submit to or comply with the time frame for submitting to, or failure to complete, the required biological fluid testing is a violation of probation.

4. <u>ETHICS COURSE</u> Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. <u>PSYCHOTHERAPY</u> Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist.

If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license, and the period of probation shall be extended until the Board determines

that respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

Standard Conditions

6. <u>NOTIFICATION</u> Prior to engaging in the practice of medicine, the respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

- 7. <u>SUPERVISION OF PHYSICIAN ASSISTANTS</u> During probation, respondent is prohibited from supervising physician assistants.
- 8. <u>OBEY ALL LAWS</u> Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.
- 9. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.
- 10. <u>PROBATION UNIT COMPLIANCE</u> Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in respondent's place of residence.

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

- 11. <u>INTERVIEW WITH THE BOARD, OR ITS DESIGNEE</u> Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.
- 12. <u>RESIDING OR PRACTICING OUT-OF-STATE</u> In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

In the event respondent resides in the State of California and for any reason respondent stops practicing medicine in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

- 14. <u>COMPLETION OF PROBATION</u> Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.
- 15. <u>VIOLATION OF PROBATION</u> Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
 - 6. <u>LICENSE SURRENDER</u> Following the effective date of this Decision, if

respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. <u>PROBATION MONITORING COSTS</u> Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ann H. Larson. I understand the stipulation and the effect it will have on my Physician's and Surgeon's certificate. I enter into this Stipulated Settlement and

Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:	12/26/10	97 Am
-		MICHAEL LOOSE, M.D.

1	I have read and fully discussed with Respondent Michael Loose, M.D. the terms and		
2	conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order		
3	I approve its form and content.		
4			
5	DATED: 1/3/11 ann Narson		
6	ANN H. LARSON Attorney for Respondent		
7			
8	<u>ENDORSEMENT</u>		
9	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
10	submitted for consideration by the Medical Board of California of the Department of Consumer		
11	Affairs.		
12	Dated: Lac 20 2010 Respectfully Submitted,		
13	EDMUND G. Brown Jr.		
14	Attorney General of California Jose R. Guerrero		
15	Supervising Deputy Attorney General		
16			
17	DAVID CARR		
18	Deputy Attorney General Attorneys for Complainant		
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Exhibit A

Accusation No. 12-2008-195029

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1 2 3 4 5	EDMUND G. BROWN JR. Attorney General of California JOSE R. GUERRERO Supervising Deputy Attorney General DAVID CARR Deputy Attorney General State Bar No. 131672 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-5538 Facsimile: (415) 703-5480 Attorneys for Complainant		
7	BEFORE THE		
8	MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CALIFORNIA		
10	In the Matter of the Accusation Against: Case No. 12-2008-195029		
11	MICHAEL S. LOOSE, M.D.		
12	PMB 269 3212 Jefferson St. A C C U S A T I O N		
13	Napa CA 94558		
14	Physician's and Surgeon's Certificate		
15	No. G84055		
16	Respondent.		
17			
18	Complainant alleges:		
19	PARTIES		
20	1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity		
21	as the Executive Director of the Medical Board of California, Department of Consumer Affairs.		
22	2. On or about August 8, 1997, the Medical Board of California issued Physician's and		
23	Surgeon's Certificate Number G84055 to Michael S. Loose, M.D. (Respondent). The Physician's		
24	and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought		
25	herein and will expire on April 30, 2011, unless renewed.		
26	/// .		
27			
28			

JURISDICTION

- 3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 4. Section 2227 of the Code states:
- "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division¹, may, in accordance with the provisions of this chapter:
 - "(1) Have his or her license revoked upon order of the division.
- "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.
- "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.
 - "(4) Be publicly reprimanded by the division.
- "(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.
- "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."
- 5. Section 2234 of the Code provides that the Board shall take action against any licensee who is charged with unprofessional conduct.

¹ Effective January 1, 2008 the Legislature abolished the divisions of the Medical Board. Under Business and Professions Code section 2002 any reference to the "Division of Medical Quality" or the "Division of Licensing" in any provision of California law now refers to the Medical Board.

- 6. Section 2239 of the Code states:
- "(a) The use or prescribing for or administering to himself or herself of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely, or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.
- "(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

CAUSE FOR DISCIPLINE

(Conviction of Alcohol-Related Felony)

- 7. Respondent is subject to disciplinary action under section 2234 for violation of section 2239(a) in that he was convicted of a felony involving the consumption of alcohol. The circumstances are as follows:
- 8. On or about November 22, 2007, a California Highway Patrol officer attempted to stop a car the officer had seen repeatedly drifting between lanes and onto the right shoulder. The subject car did not pull over in response to the officer's emergency lights and siren, but abruptly turned and began rapidly accelerating, fleeing along surface streets at speeds of up to 120 miles per hour, running stop signs, and sometimes driving in the opposing lane. The car eventually

crashed into a concrete bridge abutment. The driver, later identified as Respondent, was taken to a nearby hospital for treatment of his injuries. At the hospital, Respondent was arrested for driving under the influence of alcohol and reckless driving while evading a police officer.

Laboratory testing of Respondent's blood sample taken at the hospital revealed a blood alcohol concentration of .22%.

- 9. On May 13, 2008, Respondent was criminally charged in Napa Superior Court with violation of Vehicle Code section 2800.2 (Evading An Officer by Driving with Willful Disregard for Public Safety), a felony, and Vehicle Code Sections 23152(a) (Driving Under the Influence of Alcohol) and 23152(b) (Driving with a Blood Alcohol Amount of .08% or Higher), both misdemeanors.
- 10. On August 21, 2008, Respondent entered a nolo contendere plea to the felony charge of evading an officer and to the misdemeanor of driving with a blood alcohol of .08% or higher. Respondent was sentenced for these crimes on October 29, 2008, which sentence included a jail term, a fine, and five years probation to the court.

DISCIPLINE CONSIDERATIONS

11. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about December 23, 2008, in a prior action, the Medical Board of California issued Citation Number 20-2008-196234 and ordered Respondent to pay a fine of \$750 and correct his failure to report the felony conviction described hereinabove, as required by Business and Professions Code section 802.1 That citation is now final and is incorporated by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

- 1. Revoking or suspending Physician's and Surgeon's Certificate Number G84055, issued to Michael S. Loose, M.D.;
- 2. Revoking, suspending, or denying approval of Michael S. Loose, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

1	3. Ordering Michael S. Loose, M.D., if placed on probation, to pay the Medical Board		
2	the annual	l costs of probation monitoring	g; and
3	4.	Taking such other and further	er action as deemed necessary and proper.
4			
5	DATED:	January 5, 2010.	Brown /
6	DATED:		BARBARAJOHNSTON Executive Director
7			Medical Board of California Department of Consumer Affairs
8			State of California Complainant
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10	SF2009405		
11	accusation.		
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